



PATENT
P56219RE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: CHUN-GEON CHOI

Original Patent No. 5,828,834 issued on 27 October 1998

Serial No.: 09/697,044

Examiner: SONG, HOSUK

Filed: 27 October 2000

Art Unit: 2135

For: APPARATUS AND METHOD FOR SETTING ID CODE USING A
MICROCOMPUTER IN A DISPLAY DEVICE

**MEMORANDUM OF LAW IN SUPPORT OF
A PETITION UNDER 37 C.F.R. § 1.47(b)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Duke Y. CHOI, Esquire, an attorney regularly registered by and in practice before the Korean Intellectual Property Office for the Republic of Korea, who maintains his law offices at Taekang-Bldg. 3F., 823-8 Yuksam-dong, Kangnam-ku, Seoul, 135-080, Republic of Korea, in support of the accompanying Petition filed pursuant to 37 C.F.R. § 1.47(b), by Samsung Electronics Co., Ltd., a corporate entity chartered in and existing under the laws of the Republic of Korea, and maintaining its principal office at 416, Maetan-dong, Paldal-gu, Suwon-city, Kyungki-do, Republic of Korea, respectfully petitions the Commissioner to receive the accompanying Declaration signed by duly authorized Officer of Samsung Electronics, Co., Ltd., states that:

Folio: P56219RE
Date: 10/17/05
L.D.: REB/ny

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STATEMENTS

This statement is to certify that the ownership of the invention, "*APPARATUS AND METHOD FOR SETTING ID CODE USING A MICROCOMPUTER IN A DISPLAY DEVICE*" belongs to Samsung Electronics, Co., Ltd. under Articles 37 and 38 of the Korean Patent Law because the present invention was invented during the period of employment of the sole inventor, Mr. Chun-Geun CHOI, by staying as Samsung Electronics, Co., Ltd.

The subject invention was filed with the U.S. Patent & Trademark Office on 27 October 2000 claiming priority based upon Korean patent application Serial No. 1994-38285 filed in Korea on the 30th of December 1994 and No. 1995-51338 filed in Korea on the 18th of December 1995.

The statutory law of the Republic of Korea governing the ownership of domestic and foreign patent rights is set forth in Articles 37 [Transfer of the Right to Obtain a Patent] and 38 [Succession to the Right to Obtain a Patent], which state:

Article 37 [Transfer of the Right to Obtain a Patent]

- (1) The right to obtain a patent may be transferred.
- (2) The right to obtain a patent shall not be the subject of a pledge.
- (3) In the case of joint ownership of the right to obtain a patent, a joint owner shall not assign his share without the consent of all the other joint owners.

Article 38 [Succession to the Right to Obtain a Patent]

- (1) The succession to the right to obtain a patent before the filing of the patent application shall not be effective against third persons unless the successor in title files the patent application.

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- (2) Where two or more applications for a patent are filed on the same date on the basis of a right to obtain a patent for the same invention derived by succession from the same person, the succession to the right to obtain the patent by any person other than the one agreed upon by all the patent applications shall not be effective.
- (3) Paragraph (2) shall also apply where a patent application and a utility model application are filed on the same date, on the basis of the right to obtain a patent and utility model registration for the same invention and device which has been derived by succession from the same person.
- (4) The succession to the right to obtain a patent after the filing of the patent application shall not be effective unless the applicant files a notice of change of applicant, except in the case of inheritance or other general succession.
- (5) Upon inheritance or other general succession with respect to the right to obtain a patent, the successor in title shall notify the Commissioner of the Korean Industrial Property Office accordingly without delay.
- (6) Where two or more notifications are made on the same date, on the basis of a right to obtain a patent for the same invention that has been derived by succession from the same person, a notification made by any person other than the one agreed upon after consultations among all the persons who made notifications shall not be effective.
- (7) Article 36(6) shall apply *mutatis mutandis* to the cases under paragraphs (2), (3) or (6).

The accompanying Declaration by a co-worker employed by Samsung Electronics, Co., Ltd., who has personal knowledge of the facts, establishes that the subject matter disclosed claimed in the application assigned U.S. Serial No. 09/697,044 filed in the U.S. Patent & Trademark Office on 27 October 2000, was conceived during the employment of the sole inventor, Mr. Chun-Geun CHOI by Samsung Electronics, Co., Ltd., prior to his resignation from that employment.

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Based upon examination of the precedent set forth in judicial and statutory law of the Republic of Korea, and my familiarity of the law of the Republic of Korea, that a code of competent jurisdiction with Republic of Korea would, by the weight of authority in the Republic of Korea, award title to the invention disclosed and claimed in U.S. Serial No. 09/697,044 to Samsung Electronics, Co., Ltd., under Articles 37 and 38 reproduced above.

Respectfully submitted,

October 21, 2005
Date:

Duke Y. Choi

Duke Y. CHOI
Attorney for the Applicant

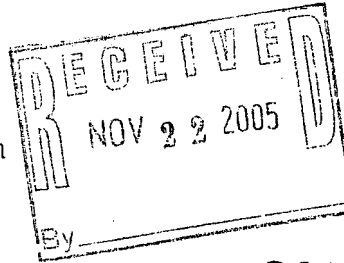


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OFFICE OF PETITIONS

In re Application of:
Chun-Geun Choi
Appl. No. 09/697,044
Filed October 27, 2000
Atty. Docket No. P56219RE

DECISION ON PETITION
UNDER 37 CFR 1.183

This is a decision on petition filed under 37 CFR 1.47, 1.181 and 1.183 on October 27, 2000 which is properly treated under 37 CFR 1.183¹ requesting suspension or waiver of the regulations (presumably 37 CFR 1.172) that require the inventors to sign any supplemental declaration in a broadening reissue application.

Petitioner requests waiver of the rule (presumably \$1.172) that requires that the inventor sign any supplemental declaration in a broadening reissue application.

The petition is granted.

BACKGROUND

1. U.S. Patent No. 5,828,834 issued to Chun-Geun Choi, on October 27, 1998.
2. A broadening reissue application (the present application) was filed for on October 27, 2000, and it was assigned application number 09/697,044.

¹If a joint inventor refuses or cannot be found or reached to sign a supplemental oath/declaration, a supplemental oath/declaration listing all the inventors, and signed by all the available inventors may be filed provided it is accompanied by a petition under 37 CFR 1.183 along with the petition fee, requesting waiver of the signature requirement of the nonsigning inventor. MPEP 1414.01

3. During the prosecution of the application, the Office required a supplemental reissue declaration directed to errors in the original patent which were corrected in the application after the signing of the original reissue declaration.

4. On October 24, 2005, applicant filed the present petition under 37 CFR 1.47 properly treated under 37 CFR 1.183 requesting suspension or waiver of the "regulations pertaining to the filing of a Supplemental Declaration under 37 C.F.R. § 1.175" that require a supplemental reissue declaration to be signed by the inventors.

5. The petition is accompanied by a "Supplemental Reissue Declaration," signed by Supplemental Reissue Application Declaration by the Assignee," signed October 21, 2005, by Kab-Tae Han, a duly authorized officer of the assignee (Samsung Electronics Company Ltd.). It is for this supplemental declaration that the petition requests acceptance, via suspension or waiver of the regulations.

6. The petition proffers a showing, including a statement of facts by Kab-Tae Han, Senior manager of Intellectual Assets Group of assignee Samsung Electronics Company Ltd., to establish that the inventor Choi is unavailable to sign the supplemental reissue declaration. The petition and statement of facts, sets forth (a) the efforts made to contact each of the inventors and obtain their requisite signatures on the supplemental declaration, and (b) the lack of success of such efforts to obtain the signature of inventor Choi.

DECISION

35 U.S.C. 251, which is directed to reissue, does not address the signature requirements of a declaration in reissue. 37 CFR 1.172 requires that a reissue declaration be made (and signed) by the inventors, except as otherwise provided (§§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. 37 CFR § 1.175(b)(1), requires that:

"For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit a supplemental oath or declaration stating that every such error arose without any deceptive intention on the part of the applicant."

37 CFR 1.175(b)(1), taken in conjunction with § 1.172, requires a supplemental declaration to be signed by all inventors. This is because all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration. Thus, each oath and/or declaration must bear the appropriate signature of the inventor(s).

37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and applicant has requested a waiver of the requirement that the 37 CFR 1.175(b)(1) supplemental declaration be signed by all of the inventor.

The instant petition is accompanied by an appropriate showing that inventor Choi is unavailable. Accordingly, the supplemental declaration, signed by five of the six inventors will be accepted as though it was signed by the inventor as required by 37 CFR 1.175(b)(1) taken in conjunction with § 1.172.

CONCLUSION

The present petition to waive 37 CFR 1.172 is granted. The petition fee for a petition filed under 37 CFR 1.183 is \$400.00. The Office is in receipt of \$200.00. Accordingly, deposit account no. 02-4943 will be charged the \$200.00 difference.

The application is being forwarded to Technology Center 2100 for further prosecution.

Please direct any questions related to this decision to the undersigned, at (571) 272-3215.



Charlema R. Grant
Petition Attorney
Office of Petitions



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24 October 2005

Applicant: CHUN-GEON CHOI **Original Patent No. 5,828,834**
Serial No.: 09/697,044 **issued on 27 Oct. 1998**
Filed: 27 October 2000
For: *APPARATUS AND METHOD FOR SETTING ID CODE
USING A MICROCOMPUTER IN A DISPLAY DEVICE*

Document filed:

- ☒ Response to the Paper No. 09697044 mailed on 22 Sept. 2005;
 - ☒ Transmittal of Documents & Fee;
 - ☒ Supplemental Reissue Application Declaration by the Assignee;
 - ☒ Declaration in Support of Petition under 37 C.F.R. §§ 1.47(b);
 - ☒ Memorandum of Law in Support of Petition under 37 C.F.R. §§ 1.47(b);
 - ☒ Petition under 37 C.F.R. §§ 1.47(b), 1.182 And 1.183;
 - ☒ Check #49770 in amount of \$200.00 & Fee Transmittal.
-



ROBERT E. BUSHNELL
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10/24/2005

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MEMO

Rule 1.47/SN: 09/697,044/P56219RE

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⑆ SECURITY FEATURES INCLUDED. DETAILS ON BACK. ⑆

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